

General Update

Volume 2

Issue 1

Winter 1988-1989

**The official
newsletter of
the Attorney
General's Office**

Dear Colleagues:

Because the safety of thousands of Massachusetts citizens is inescapably tied to the safety of the Seabrook nuclear power plant, we have spent more than 14 years seeking to focus attention on the safety problems inherent in the plant's location.

There is no way that the 10-mile area surrounding Seabrook — an area which includes some of our most popular beaches and more than 140,000 residents —

can safely be evacuated in the event of a radiological emergency. No executive order or Presidential proclamation can ever change the fact that the nuclear plant is ill-sited and should never have been built.

These concerns are not new. We sought to have these problems addressed by the Nuclear Regulatory Commission long before billions were spent on the plant's construction. Now completed at a cost of \$5.5 billion,

Seabrook remains idle and its lead owner bankrupt.

Today our work on Seabrook continues to be the single largest piece of litigation ever undertaken by our office.

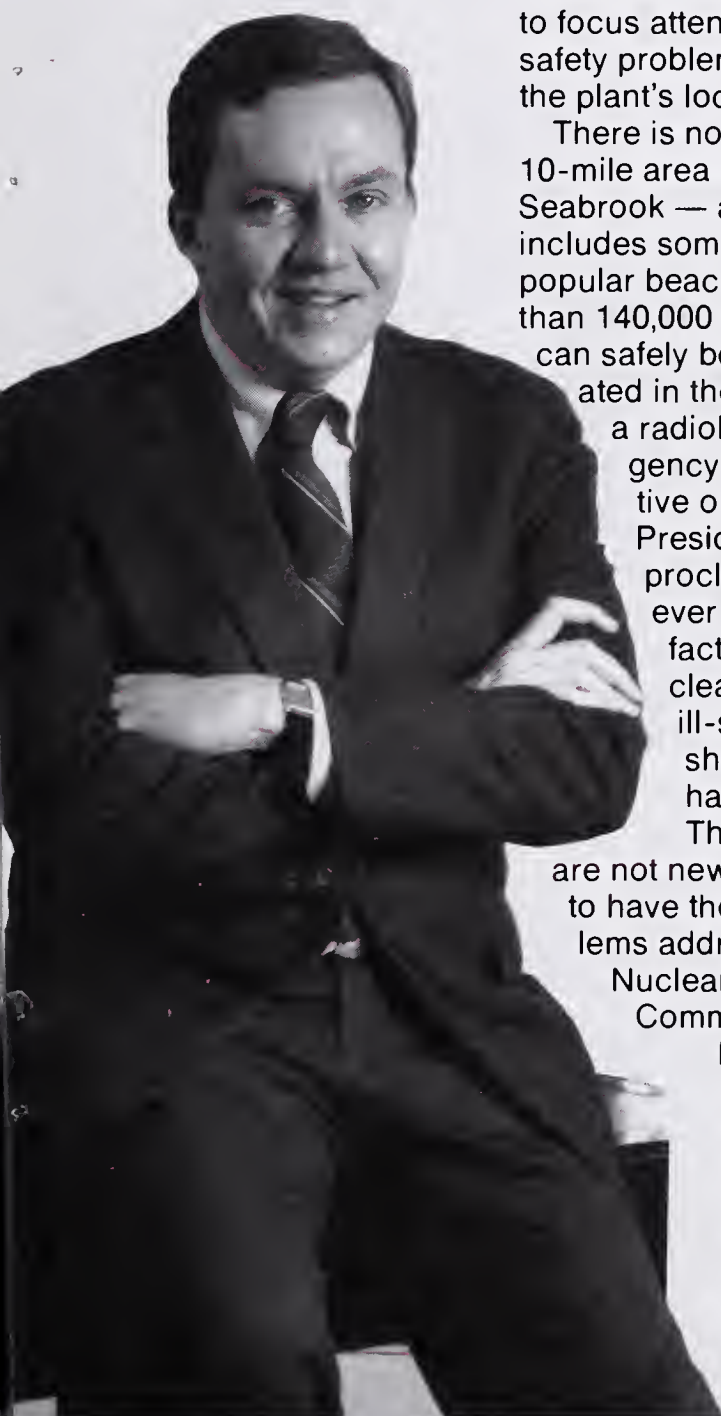
This past year, attorneys from our Nuclear Safety Unit (NSU) spent more than three months at formal hearings challenging the adequacy of the New Hampshire plan. We are preparing a similar challenge to the evacuation plan for Massachusetts residents prepared by the bankrupt utility. We will continue to use every forum available and mount every legal challenge to convince the federal regulatory officials — and, if necessary, the federal courts — that the proposed evacuation plans are a farce and fail to meet federal standards for protecting the public safety.

Because we are convinced Seabrook will never be granted a commercial license, we are also opposing the owners' request for a license to run the plant at low-power. Such testing will only contaminate the plant with radioactivity and irrevocably commit huge financial resources to managing that waste and then removing it. After Public Service of New Hampshire — Seabrook's lead

owner — filed for bankruptcy last year, it was clear that it was financially incapable of permanently shutting down a contaminated plant after low-power operation. Should the NRC ignore these concerns and give Seabrook a low-power license, we are prepared to carry this fight to federal court. It simply makes no sense to let Seabrook test at low-power, particularly when the costs incurred will ultimately be borne by the ratepayers.

Finally, we are working to protect the economic interests of our citizens. Our Utilities Division, for example, has been urging those utilities in Massachusetts which own a part of Seabrook to recognize that Seabrook will never operate commercially and that they should stop wasting ratepayers' and investors' money trying to keep it afloat. Only when that fact is fully recognized can all the parties get on with the important planning of our future energy needs.

For Shannon



AG Goes High Tech

Here's a headline that none of us will ever see: "Wang document lost. Over 120 pages." But, that document could have been the brief that was headed to the Supreme Court.

The staff of the Data Processing Division, which oversees the entire Wang system, makes sure this kind of disaster never happens. The unit also collects and computerizes volumes of essential data for the office, other state agencies and the public. Under the direction of Budget Director, Patrick Moynihan, the division includes Word Processing Coordinator, Marie Capone and staff assistant Nancy Logan.

Over the last several years, the Wang system has become critical to the Department. Keeping everything in top running order is the responsibility of the Data Processing staff. They are the people behind those notices we receive from time to time announcing an impending system shut-down. According to Patrick, "power-downs" are necessary to update the software, transcribe the entire system to an alternate pack for off-site storage (a safety mechanism in case of fire), or to protect the system if a serious storm or hurricane warning is in effect. Additional cov-

erage is provided by Nancy Logan, who begins her day at 6:45 a.m. to copy the 13 tapes used each work day.

On call for her eight hours here, Marie Capone creates and keeps watch over the computer libraries and is available to help anyone at a terminal. A typical frantic call might be: "My terminal froze, I'm in the middle of a 70-page brief and it's due today at five. Help!" "My responsibility is to get this person out of trouble," Marie says. "I'll release the terminal allowing me to see every computer in use at that moment. By releasing the right terminal the document comes back. It actually feels like it's my document."

Thanks to Marie's computer classes, there might come a time when everyone in the department is "computer literate." Classes are held four times a month and Marie reports that the response has been "overwhelming." People who have avoided the Wangs for years find they don't want to leave their terminals once they've mastered the system.

The Data Processing Division also keeps the records. The division produces an inventory of every item in the office from typewriters to fans, runs computer sheets on all open cases in the Depart-

ment, and lists companies that have five or more consumer complaints registered against them. Beyond the in-house data there are numerous reports and research the AG provides for state agencies. For instance, the Attorney General is required to keep records of drinking establishments cited in four or more drunk driving cases. In one week's time more than two dozen citations will land on Nancy's desk who then completes a name and address check before sending the information to the Alcoholic Beverages Control Commission.

And under the heading of Criminal Usury Law, anyone in the Commonwealth who loans money and charges over 20% interest must file with the AG.

It's no wonder the members of Data Processing are singing the praises of the two newly acquired laser printers which print 15 pages a minute. When you consider that the division prints the 300 to 10,000 labels a month for the Public Charities' registration forms, the staff attendance sheets and the phone directory, it's hard to imagine how they ever did without them.



Marie Capone, left, instructing Government Bureau receptionist Gail Ahern.

Mary Breslauer, Director of Communications

Francine Sasso, Editor

Contributors: Chris Villa
Tom McNaught
Martha Bakinowski
Dan Adams

Photographer: Paul Yandoli

This issue of GENERAL UPDATE introduces the division chiefs who direct the AG's public advocacy work in the important areas of public charities and antitrust law as well as the Chief Investigator for the Public Advocacy and Public Protection Bureaus.



As Chief of the Antitrust Division, **George Weber** directs the AG's investigations and prosecutions of anyone or any business which violates the federal or state antitrust laws. "What I find most rewarding about antitrust work is that it benefits consumers by making sure economic entities do not fix prices or otherwise participate in our economic system in an unfair manner," says George. Since joining the

An Interview With . . .

"Multi-state cooperation is an effective way to assert greater strength in negotiations."

AAG Susan Roberts
Deputy Chief,
Consumer Protection Division

Through civil rights work as a Brandeis undergraduate and then at the National Consumer Law Center as a Boston University law student, Susan Roberts knew the direction her legal career would take. After working at a small law firm committed to under-represented individuals, she came to the AG's Consumer Protection Division five years ago believing that "The strength and good reputation of this office would allow me to accomplish more for a greater number of people, as compared with individual representation in the private sector."

In 1988, Susan was honored with the National Association of Attorneys General's (NAAG) Marvin Award for her work on consumer protection issues and bankruptcy law. On her case load, her involvement with NAAG and the parenting of two pre-school children, Susan says: "I like to work hard, especially at a career that benefits so many."

Q. As a member of NAAG's task force to study the airline industry, you helped draft the guidelines on airline advertising. Why such a task force?

A. By comparing notes at our conferences we found



there was an increase in consumer complaints involving unfair and deceptive advertising and marketing practices by major airlines. In December 1987, the association adopted a standard set of guidelines for the airlines to follow. They focus on advertising promotion and operation of discount fares and frequent flyer programs.

Q. You coordinated NAAG's task force, brief, and model legislation on all-terrain vehicles. What prompted the involvement in this area?

A. The states had long recognized that ATVs posed considerable dangers to riders, particularly children. When the Consumer Product Safety Commission failed to take aggressive action to dramatically reduce the numbers of ATV deaths and injuries, the

states banded together to offer more effective alternatives.

Q. Why is NAAG playing an increasing role in consumer issues?

A. Because many companies now advertise nationally and do business in a number of states, we must look beyond our borders and work together to protect consumers.

Q. Does the AG's investigation into the Suzuki Samurai involve issues similar to those in the ATV situation?

A. In some ways, yes. Like ATVs, the Suzuki Samurai, which is a jeep-like vehicle, has been found by some consumer organizations to have a lack of stability causing it to roll over without much difficulty, particularly on paved roads and highways. Our concern is that Suzuki advertises and promotes these vehicles in a way that makes people believe that they are as safe as passenger cars when, in fact, this does not appear to be the case. We're particularly concerned because Suzuki markets the Samurai to young drivers. We want Suzuki to prominently disclose in its advertising that the Samurai does not maneuver like a passenger car and that particular driving skills may be necessary.

Short Takes

Charlie Hill, one of the AG's complaint mediators in the Consumer Protection Division, recently settled an eight-year-old complaint. It seems that an out-of-state consumer ordered a \$2,000 antique train from a Massachusetts company in 1980 and never received the merchandise. After years of tracking down the company and the owner, Charlie had the train shipped to the amazed consumer this month.

Congratulations are in order to Budget Director **Patrick Moynihan**, **Walter Foster** of the Government Bureau, **Gerald Noone** of the Industrial Accidents Division and **Patricia Vachereau** of the Springfield Office for passing the bar exam.

Did you know that AAG **Danny Dilorati** of the Civil Bureau ran *another* marathon? This time, it was New

York. We've heard of the run-around people get in New York, but this is ridiculous!

Congratulations to **Stacey Cushner**, **Juan Flores**, **Lila Heideman**, **Debbie Loeb**, **Patty Montani**, **Kay Ryan**, **Roberta Schnoor**, **Tricia Strumm**, **Susan Wall**, **Madelyn Wessel** and **Harry Yee**. All became new parents. Best wishes.

We'd like to welcome two new attorneys — **Tobin Harvey**, Chief of the Appellate Division in the Criminal Bureau and **Michael Sentance**, Director of Legislative Affairs. And welcome to Administrative Assistant **Didi LaRochelle** and Financial Analyst **William McAvoy**, both of whom will be working with Budget Director **Patrick Moynihan**.

Utilities Division — No Shortage Of Power

Who can remember when a dime bought a stamp, a candy bar, a pack of gum or a newspaper? If the AG's Utilities Division is successful in a case now before the Department of Public Utilities (DPU), however, 10¢ will continue to cover the cost of a local pay phone call in Massachusetts.

Last November, when New England Telephone (NET) asked the DPU for permission to bump the charge for those calls to 25¢, our Utilities Division immediately intervened, arguing that the rate hike was unwarranted. In formal testimony filed with the DPU, the AG countered that NET's pay phone service is already profitable and that the proposed 150 percent price increase would particularly hurt poor and low-income residents who cannot afford home phones and depend on pay phones for vital communications. Most recently NET has asked the DPU for permission to withdraw its proposed increase. In response, the AG has asked the DPU to decide the petition on its merits and to deny the increase. Both requests are pending.

Whether it involves a threat to the dime phone call, or an imprudent half-a-billion dollar investment in the Seabrook nuclear

power plant, the spirited defense of ratepayer's interests by this office has made a significant difference in consumers' ability to afford the basic necessities of heat, light, and telephone service. Since 1973, the Attorney General's Utilities Division has served as the major, and in most instances, the only representative of consumer interests.

Under the direction of Assistant Attorney General George Dean, the Utilities Division is comprised of nine lawyers, two financial analysts, an economist and four skilled support staff. In addition to monitoring utilities performance and compliance with the state's regulatory policies on plant management, planning capabilities and conservation, division lawyers intervene in all rate setting proceedings to ensure that consumers receive services at a fair price.

In a recent settlement involving New England Power Company's (NEP) \$550 million investment in Seabrook Unit 1, our office negotiated an agreement under which NEP's stockholders will absorb more than half the company's investment in the idle plant. As a result, Massachusetts ratepayers will be relieved from paying \$42 million per year in carrying charges on what the AG considers an

unwise investment.

The AG has also petitioned the DPU to order Boston Edison to refund to consumers at least \$117 million in costs paid for unreasonable and imprudent management by Boston Edison Company at the Pilgrim Nuclear Power plant. The plant has been out of service for more than 30 months, a shutdown that has cost ratepayers at least \$155,000 a day or more than \$170 million to buy

replacement power.

These are but a few of the many battles being waged by the Utilities Division to protect consumers' interests in complex rate setting hearings. Without the expert representation offered by the Attorney General's lawyers and financial experts in utility proceedings, Massachusetts consumers would not have a strong voice in how they are billed for the utilities they receive.



Steven LaBadessa, *Boston Herald*

Jim Shannon with Boston NAACP President Carl Haith, announcing the filing of a brief by 47 Attorneys General asking the U.S. Supreme Court to preserve Runyon vs. McCrary. The 1976 landmark civil rights decision permits minority plaintiffs to sue private institutions and seek damages for intentional discrimination. The Court reheard the case last year and is expected to issue its opinion in July.



Fred Knowles, Chief Investigator of the Public Protection Bureau for 12 years, says that a good investigator should have an inquisitive mind, be able to go to the right places, ask the right questions and obtain the right information. "Since you usually don't know

what you've got until the final pieces of the puzzle are in place, patience is especially helpful." Fred oversees a staff of 13 investigators and two secretaries who help the legal staff develop evidence in civil rights, environment and consumer cases. Fred explains

that the only difference between civil and criminal investigators is that his people have no arrest powers and don't carry weapons.

Lawsuit Could Serve As Nationwide Model

Responding to growing evidence that chlorofluorocarbons ("CFCs") are destroying the stratospheric ozone layer, the AG's Environmental Protection Division (EPD) brought the first case by a state to stop the release of the man-made chemicals. In a landmark settlement, which Jim says "signals a new era in environmental enforcement," the Hyannis company agreed to an immediate phase-out of CFC emissions by the end of 1988. PI, Inc. will also pay a \$700,000 fine, the highest civil penalty ever assessed in a Massachusetts environmental case.

The suit filed charged that the company illegally emitted 1,300 tons of CFCs a year in the process of blowing cushioning material, foam pipe insulation and other products. Affidavits from environmental scientists alleged that the CFCs were contributing to the depletion of the ozone layer over Massachusetts. In the end, the company chose not to litigate.

"For the first time," proclaimed a *Cape Cod Times* editorial, "a state agency has brought suit against a corporation for ozone depletion. The settlement of a lawsuit filed by the state against PI, Inc., is every bit as significant as Attorney

General James Shannon says it is. The state won - and won big."

The settlement forges a legal trail for other states to follow. The federal Environmental Protection Agency has defaulted on this issue by only releasing rules to control CFC production through market restrictions, and then scheduling the effective date of the rules to the uncertain time when the international ozone treaty is ratified.

"CFC emissions are explicitly exempt from federal air regulations and those of many states," says EPD Chief Lee Breckenridge. Massachusetts, however, never granted this exemption, so the compounds are regulated like other chemicals in this category and require a permit. According to the AG's suit, PI never applied for a permit.

"Many states appear to have the legal authority to bring similar actions under their state Clean Air Acts, but some may have to amend existing statutes and regulations to regulate ozone depleting substances," explains AAG Reed Zars, the lead attorney in the case. Massachusetts' action, brought under the state Clean Air Act, is the states' best hope for controlling CFCs at the source of emission.



Mark Coven, Steven Jonas and Donna Sorgi.

Three new Deputy Attorneys General have been appointed. With the departure of Phyllis Segal, **Mark Coven** has been promoted to **Deputy Attorney General for Policy**. Mark will oversee the policy and direction taken by the Department to ensure proper coordination and consistency. Mark has served as Chief of the Consumer Protection Division, and was the Assistant Secretary for Health and Welfare at the Executive Office of Human Services, before joining the Department in 1987.

The Public Protection Bureau has been restructured into two bureaus: the Public Advocacy Bureau (PAB) and the Public Protection Bureau (PPB). As **Deputy Attorney General and Chief of the Public Advocacy Bureau, Donna**

Sorgi will oversee the Utilities, Insurance, Public Charities, and Antitrust Divisions. Donna, who has been with the AG's office for 11 years, has been Chief of the Utilities Division for the last three years.

Stephen Jonas is the new **Deputy Attorney General and Chief of the Public Protection Bureau**. Steve has been Deputy Bureau Chief of PPB under Stephen Oleskey, who recently returned to Hale & Dorr. The bureau now includes the Consumer Protection Division, Complaint Section, Local Consumer Programs, Civil Rights, Nuclear Safety Unit, Environmental Protection Division, Investigative Unit, and Special Litigation Unit. Prior to joining the AG's office in 1987, Steve was a litigation attorney at Hale & Dorr.

Department in July, George's division of 10, including lawyers, paralegals and secretaries, have taken action against conspiracies in the health care field as well as a major supermarket chain. Prior to his appointment, George served as First Deputy General Counsel of the Boston Housing Authority and as a trial attorney for the U.S. Department of Labor.



Richard Allen, Chief of the Public Charities Division since 1983, heads the office which registers every charitable organization in the state. The staff of five attorneys, two paralegals and six administrative staff track the financial information of the more than 20,000 charities and trusts on file. A former lawyer with Legal Services at the Massachusetts

Law Reform Institute and Greater Boston Legal Services, Dick continues his public service work by enforcing the state's charitable solicitation laws. In an effort to reach more individuals in the field more directly, Dick has begun addressing non-profit organizations on their legal responsibilities and the growing crop of professional fundraisers.

Cases of Note

In the first action of its kind, a man posing as a mortgage broker and fraudulently inducing people into paying mortgage application fees for nonexistent financing has been sent to jail. CPD's civil action against William Wolff of Quincy will net approximately \$21,000 in restitution for consumers who lost money. AAG Max Beck of the Criminal Bureau presented the case to the Grand Jury and prosecuted Wolff on criminal charges. AAG Sherry Yee Mulloy of CPD handled the civil case. Wolff was sentenced to four years in the Norfolk County House of Correction.

* * *

In *Commonwealth v. Morash*, the Supreme Court will review an SJC decision that failed to hold an employer accountable for

nonpayment of earned, but unused vacation time. The AG's petition to the Supreme Court argues that the decision is at odds with rulings of other federal and state courts in similar cases, and that the court should hear and decide the case to resolve the conflict among the lower courts. "The SJC's decision is potentially devastating," Jim said, "because it will leave employees without a state remedy when employers deprive them of rightfully earned vacation pay and possibly other employment benefits." AAG Mark Laredo of the Criminal Bureau's Appellate Division wrote the petition.

* * *

The Antitrust Division has charged 24 Springfield obstetricians/gynecologists with conspiring to boycott one of the largest

health insurers in the state. The suit charges that through mass resignations, the doctors sought to pressure Blue Shield of Massachusetts into increasing reimbursements to physicians. AAGs George Weber and Milton Marquis are handling the case.

* * *

The Department has petitioned the Supreme Court to review an SJC decision striking down the constitutionality of a Massachusetts child pornography statute. Jim will present oral arguments when *Massachusetts v. Oakes*, the case which led the state court to rule the law too broad, is heard early this year by the high court. AAGs Madelyn Wessel and Judy Zeprun wrote the petition which was granted by the court. The Governor recently

signed into law new legislation addressing child pornography filed jointly by this Department and the Dukakis administration.

* * *

By the time of the presidential election, no handicapped or elderly person was denied their right to vote because of physical barriers at their city or town polling place. For the most part, compliance with federal and state accessibility laws was obtained with a minimum of litigation. AAGs Judith Fabricant of the Government Bureau and Doug Schwarz of the Civil Rights Division contacted local officials, and arranged technical assistance to the communities involved and follow-up visits by the Office of Handicapped Affairs to examine newly constructed ramps.

Department of the Attorney General
1 Ashburton Place
Boston, MA 02108-1698
(617) 727-2543

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DOCUMENTS
COLLECTION

Dear Colleagues:

We're winning some battles against our number one problem — drugs. But we're not going to win the war until we bring our crime fighting laws up to date, expand drug education in our schools, treat the drug epidemic as a public health crisis as well as a criminal issue, and acknowledge and accept that drugs are, literally, everywhere. As the Commonwealth's chief law enforcement officer, my role in this effort is clear.

Creating a drug unit to wage this battle was my top priority when I took office.

Today we have six lawyers handling narcotics cases.

The state troopers are back. And cooperation is high within our law enforcement community. The leadership of Criminal Bureau Chief John Pappalardo and Narcotics Division Chief Sydney

Hanlon, has led to the arrest of 88 cocaine traffickers, charges against 20 more defendants for various drug violations, the

the seizure of approximately 90 pounds of cocaine and sizeable amounts of other narcotics. Most of these arrests have yielded guns — including machine guns and high-powered rifles — a fact of life in the war against drugs and one that marks a new high in the danger level for police and undercover investigators.

We have had 11 convictions after trial, guilty pleas by 12 defendants and over 70 defendants are now under indictment. I don't plea bargain with drug traffickers, so those prosecuted by my office can look forward to serving a full sentence.

But it has become obvious that aggressive enforcement of existing laws is not enough. Drug traffickers today are highly organized and well financed. If we're going to put sophisticated drug cartels out of business, our drug laws must recognize that drug dealing is a big business, cleverly marketed on the streets, in schools, and in the workplace. The consequences of conviction must be powerful enough to deter highly lucrative drug activity. At the present time they are not.

I have filed the Massachusetts Narcotics Enforcement Act of 1989 and refiled the racketeering bill in an effort to synchronize our state laws with the drug trafficking of today. A key provision is narcotics forfeiture which would take the proceeds of drug dealing and use it to fund investigations and pro-

secutions. Criminals too often serve their time and return to their riches. The legislation would also double the time a convicted dealer would have to serve before becoming eligible for parole.

The racketeering proposal would take the forfeiture provision further and allow prosecutors to literally dismantle criminal organizations. The federal government and 27 states have used racketeering statutes successfully to prosecute drug dealers. Instead of hitting just the foot soldiers of a drug trafficking enterprise, a racketeering law would enable us to attack the whole organization — from the street pusher to the king pin.

Huge profits are not only a powerful incentive for going into and staying in the drug business, they also create a lifestyle emulated by too many of our children. In a very real sense, drug dealing has become a career option for disadvantaged youth.

Fighting drugs remains my highest priority. How well we do will be significantly determined by law enforcement tools at our disposal. It will also be determined by the length and severity of sentences drug dealers face. The kind of state Massachusetts will be in the future will be shaped by these issues.

John Shannon



AG and Local Governments Preserve Old Massachusetts Tradition

At the turn of the century Massachusetts communities passed by-laws prohibiting "cattle to feed on any highway" and "any swine to go up on any sidewalk." Town meetings still vote on pressing issues of the day, only now warrant articles are about affordable housing, environmental protection and municipal finance.

The issues have changed with time but the role of the Attorney General has not. Since 1904, it has been the duty of the AG to review all local by-laws voted on at town meetings. This means that before about 2,000 by-laws passed each year become official statutes, they must bear the AG's

stamp of approval. AAG Tony Penski, Director of the Municipal Law Unit in the Government Bureau, says, "Approval or disapproval of by-laws is based solely on issues of legality. The AG's authority is not to determine whether a by-law is wise, sensible or the best way to accomplish a particular objective, but rather to ensure that the town has met all statutory requirements."

Tony and a paralegal prepare a formal opinion when a by-law is rejected. The legal grounds upon which a by-law is judged fall into two general categories — procedural and substantive. Procedural questions are the least complicated, concerning such matters as

the timing and form of public notice, the initiation and amendment of by-laws, and the necessary form and number of votes to approve articles contained on the town meeting warrant.

It's the substance of by-laws, says Tony, that presents the most challenging legal issues. Guided by the Home Rule Amendment to the Massachusetts Constitution, towns may adopt any by-law which is not inconsistent with the Constitution or state laws.

Describing municipal law as "a field unto itself," Tony says often there is little, if any, clear cut law on which to base a decision. For example, a review of Massachusetts case law recently found no fixed rule for what

maximum permissible lot size may be imposed under local zoning. Research of case law from other jurisdictions, however, eventually led to the conclusion that under certain circumstances lot size requirements as large as five acres per dwelling may be reasonable.

The unit also reviews municipal charters and consults with town officials and attorneys — familiar territory to Tony. Before joining the AG, he was Solicitor of the City of Gardner and Town Counsel for Athol and Hubbardston. Those jobs have made him a believer in the wisdom of local government. "No one knows better than the town itself what kinds of laws they need at a local level," he notes. "Most towns passed the simpler by-laws 30 years ago. Today, we're dealing primarily with complex issues."

Today's trend in by-laws reflects increasing concerns about environment and growth control. By law, annual town meetings must conclude before June 30. That means the bulk of the by-law review occurs in late spring and through the summer. At times, every secretary and receptionist in the Government Bureau helps out. "Everyone pitches in. It's a complete team effort and we get the work done," says Tony.



By-Law records come of age — Tony Penski consults the computer bank.

The five bureaus in the department handle a tremendous volume of work, much of it produced under court-ordered deadline. Delegating the load while maintaining a pleasant work environment is the responsibility of the bureau administrators. And they agree that a spirit of teamwork and dedication to public service is key to it all.



According to **Elaine McIntyre**, Deputy Administrator for the Public Advocacy Bureau, the bottom line is that the "work gets out." From finding a secretary to stay late, to ensuring that phones are always covered, Elaine finds working for the AG means "never a dull moment." She has always enjoyed resolving problems for people and her career reflects this. Elaine was formerly a secretary in the Utilities Division and at the Veteran's Medical Center in West Roxbury.



An Interview With . . .



"What we're trying to do here is to protect the victims of civil rights harassment. It's not fun having your windows smashed or getting your phone lines cut."

Frank Gantley
Deputy Chief Investigator
Public Protection Bureau

Escape from Alcatraz, the kidnapping of Frank Sinatra, Jr., the assassinations of President John Kennedy and Reverend Martin Luther King, the Vietnam War riots and the radical bombings in the Northeast. The list reads like a great events retrospective but these are just some of the cases assigned to Frank Gantley as an FBI special agent from 1955 to 1979. Today, Frank is the Deputy Chief Investigator for the AG's Public Protection Bureau where he concentrates largely on civil rights cases. "What we're trying to do here is to protect the victims of civil rights harassment. It's not fun having your windows smashed or getting your phone lines cut," says Frank.

A Weymouth resident, and a 1951 graduate of New England Law School, Frank has been with the AG's office for nine years. Three decades in law enforcement on both coasts, has given Frank a broad perspective.

Q. How would you describe your years in the FBI?

A. They were very, very interesting years. I was first stationed in California in the early sixties. It was a time of considerable unrest. There were riots over the gassing execution of Carl Chessman and the hearings of the House Committee on Un-American Activities. Congress was investigating the Communist Party of America. Without

warning, students and what were called beatniks converged on San Francisco City Hall to protest those hearings. These demonstrations were the forerunners of free speech and antiwar demonstrations that were to follow. The police turned the hoses on the protesters and the photos made front page news around the country.

In 1964, I was transferred to New York City, the "Big League of the Bureau." I remember one protest march with at least 100,000 people. It wound down Broadway all the way to the United Nations. This was where all the anti-war protesters would eventually end up.

Q. What brought you back to Massachusetts?

A. In 1975 I was sent to Boston because of federally court ordered busing. The seventies were very violent times here as elsewhere with radicals blowing buildings up. We caught three members of the group responsible for several bombings when they tried to blow up the state police barracks in Topsfield. They all went to federal prison.

Q. Why do Civil Rights cases interest you?

A. I did civil rights in the FBI so I know the territory. Jim sticks his neck out. When we get a complaint we don't push it aside. Some of these people take a real beating and we've got the means to do what we can to relieve their sufferings, to stop the violence.

Q. What does an investigation entail?

A. You get a complaint. For example, a minority church minister arrives to see his church spray painted with racial slurs. By talking to everyone you can, you come up with leads and build on each one. In this case, we were able to apprehend those individuals responsible for the destruction. In a civil case an injunction is drawn up in court which prohibits the defendants from continuing the behavior. Injunctions are a great aid because if the terms of it are broken the individuals will be picked up for contempt of court. We recently got a temporary injunction to protect some Cambodian people and two defendants ended up going to jail for disobeying the injunction.

Q. How has the law enforcement scene changed over the past 30 years?

A. Unfortunately, there's less respect for law enforcement. When I was young, you never heard of dope and kids certainly weren't carrying automatic weapons. A conversation I had with a high school principal sticks in my mind. He said "No one turns the other cheek, no one steps back and apologizes. There's more violence than I would ever have imagined." I never forgot that because it goes to the heart of the matter. It also makes you appreciate how much kids learn at home.

Short Takes



Congratulations to **Sandy Cheung**, one of the Government Bureau's secretaries, who was recently sworn in as a U.S. citizen.

The good news is that **Kim Sweet**, a paralegal in the Public Charities Division, has been accepted into Columbia Law School in September. The bad news is that she'll be leaving the AG's office shortly. Congratulations Kim!

Speaking of Public Charities — **Susan Wall** recently passed the Bar exam and is now an Assistant Attorney General in that division.

Congratulations to Contracts Chief, AAG **Peter Zuk** who topped the ticket in the race for re-election for one of Danvers' Selectmen.

It's softball season again, and Shannon's Generals are going strong. Good Luck!

Be on the lookout for a Public Service Announcement — on television sponsored by the Secretary of Consumer Affairs and Business Regulation. One of the stars is our own **Mary Flohr**.

And congratulations to new parents **Linda Butler, Judy Beals, George Dean, Liz Hapgood, Judy Saltzman** and **Susan Wall**.

Local Consumer Programs — Consumers' Best Buy!

Massachusetts has one of the toughest and most effective consumer protection programs in the country, due in large part to the extraordinary efforts of local consumer advocate groups. The role advocates play in helping consumers resolve problems is critical. With funding provided by the AG, seven Face-to-Face Mediation and 27 Local Consumer Programs statewide provide information about consumer rights, offer guidance for resolving disputes outside the courtroom and mediate consumer complaints. It is a true grassroots effort as the following case histories illustrate.

— A telephone solicitor told an elderly woman that if she purchased vitamins for \$400 she would receive one of several fantastic prizes, perhaps a home or a car. Impressed, the woman gave the caller her credit card number and ordered the vitamins. But when she checked with her doctor, he urged her *not* to take the vitamins. The company refused to take the vitamins back. The Fall River Local Consumer Program (LCP) told the woman that she could temporarily charge the cost of the vitamins back to the company by writing a letter to her credit card company explaining the dispute. In the meantime, an LCP mediator called the company and secured a full refund.

— A single parent residing in Somerville was threatened with eviction. The landlord complained that she was late with rent payments and had changed her lock without giving him a key. Through a Face-to-Face Mediation session the landlord learned that she had legitimate issues about repairs. The result? The tenant agreed to prioritize repair needs and the landlord agreed to all repairs.

— A wheelchair-bound man made it clear that he had to be able to move easily on wall-to-wall carpet he was purchasing. Once the carpet was installed he found he could not move around at all. The Newton LCP convinced the store's manager to install a thinner pad because the man had relied on the skill and judgment of the carpet salesman to select the one that would work.

Last year, these individuals were among 16,000 people who solved their consumer problems through the local consumer and Face-to-Face Mediation programs funded by our office. The AG obtains the money through the Local Consumer Aid Fund and in partnership with varying sponsoring agencies. In addition, money received by the AG's Consumer Protection Division in settlement of consumer related cases is used to supplement this fund.

"It's very fitting that the money we receive in settlement go to the local pro-

grams," Jim said. "They are really our eyes and ears in many cases and often alert us to statewide problems" In 1989 Jim awarded \$777,743 in grant money to the program directors.

The telephone advocacy work performed by the local programs and the no-charge services provided by the Face-to-Face Mediation Programs save consumers money and time. In 1988, the LCPs saved consumers \$3.2 million. The mediation sessions are easily arranged and conducted by trained volunteers. With courts so overcrowded, judges often refer such disputes to the Face-to-Face Mediation programs. And because parties are invested in the agree-

ment they are more likely to abide by it. Mediation leads to agreements in more than 80% of the cases, and more than 95% of those are upheld. Once an accord is struck, the mediators provide a written agreement and follow-up to ensure that the terms of the settlement are honored by both sides.

Local Consumer Programs can be found in city or town halls, District Attorney offices, and CAP agencies. All complaints are logged into a central computer in the AG's office to monitor consumer problems. When there are patterns of unfair practices, or attempts to mediate serious complaints fail, legal action is often taken.



Jim presents to Robin Rieske, Director of the New Bedford MassPIRG Consumer Action Center, the 1989 LCAF grant award.

"I like the side I'm on. I have a lot of pride in working for the AG," says **Louise Nameika**, Criminal Bureau Administrator. Louise began her career as a legal secretary at the Old Boston City Hall and in the AG's Eminent Domain Division. Louise, who has been with the department almost 18 years, says whatever the assignment or sudden push, "This is a group of hard workers where everyone helps one another."



Linda Butler, Civil Bureau Administrator describes her job as catch-all, with no two days alike. "One moment you're dealing with bottled water supplies and the next dispatching an investigator or getting a brief filed in court," says Linda. The fact that the work of the bureau directly helps people is very important to her. Linda has been with the AG since 1976, and has worked in the Government and PPB Bureaus.

Mary Breslauer, *Director of Communications*

Francine Sasso, *Editor*

Contributors: Chris Villa
Tom McNaught
Martha Bakinowski

Photographer: Paul Yandoli

New Leadership on the Starting Line

Over the past few months a number of new division chiefs have been appointed. This new crop of leaders brings a wide array of talents and expertise to their posts. We take this opportunity to welcome them to the AG's office.

Our new Consumer Protection Chief, **Robert Bowens**, comes here after nearly four years as an attorney and office manager at the Greater Boston Legal Services. Prosecution of slumlords and protection of low-income tenants is a top priority. "I have joined the office with high hopes of winning the fight for affordable housing," says Robert. To that end, he is representing the office on both the Boston Inner City Task Force and the Housing Affordability Project of the Massachusetts Law Reform Institute — two separate working groups aimed at improving the quality of life in the city's neighborhoods, and preserving affordable housing in Massachusetts.

Ruth Bourquin and **Eric Mogilnicki** have taken over the task of Elections Counsel. They will work to coordinate and oversee election financing and procedures, initiative petitions, and referenda that come into the office. Ruth, who continues to work as an AAG in the Government Bureau, was an associate at Sullivan & Gromwell in Wash-

ington, D.C. before joining the AG's office. Eric continues his duties as an AAG in the Executive Bureau as well.

Seabrook is the single largest piece of litigation now in the department, and **John Traficonte**, has taken over the reins as Chief of the Nuclear Safety Unit. John has been with the Unit since 1987, serving as senior attorney. The division handles all state litigation concerning nuclear power plants, including Seabrook and Pilgrim. Under John's lead, the office is now challenging the evacuation plans for Massachusetts residents prepared by the Public Service Company of New Hampshire (PSNH), the appeal of the New Hampshire Plans, and the siren rule change.

George Dean, Chief of the Utilities Division, is a seven-year veteran here, serving in the Antitrust, Nuclear Safety and Utilities Divisions. In 1987, George was singled out by the National Association of Attorneys General (NAAG) for his leadership role in the multi-state antitrust action against Exxon and other oil companies. George now leads the division that represents the consumers' interests in gas, electric and telephone rate cases. "I see our work as particularly important because in many cases, this office is the only one to speak on behalf of consumers in utilities cases."

As Chief of the Appellate Division in the Criminal Bureau, **Tobin Harvey**, oversees criminal appeals, post-conviction litigation, and representation of the state in all criminal cases that reach the U.S. Supreme Court. Tobin brings to his post six years experience as an Assistant U.S. Attorney where he was involved with the Major Fraud Unit and Organized Crime Drug Enforcement Task Force.

"Helping victims get their lives back on track after a traumatic experience is one of the most rewarding aspects of the work done by the Victim Compensation and Assistance Division," says Chief **Maria Pizarro-Figueroa**. The division, which was

created by Jim, is charged with expediting claims for compensation, providing community outreach to victims and providing direct services to victims and witnesses of violent crimes.

The Attorney General's office has an interest in many issues before the Massachusetts Legislature. **Michael Sentance**, Director of Legislative Affairs, ensures that the interests of the department are known at the State House. Michael and his staff monitor all bills filed by the AG and the many proposals which have a direct interest to this office. Before joining the AG's office in October of 1988, Michael was General Counsel at the Massachusetts Credit Union Association.



Seated: Ruth Bourquin, Tobin Harvey. Standing left to right: Michael Sentance, Maria Pizarro-Figueroa, Robert Bowens. Missing: George Dean, Eric Mogilnicki, John Traficonte

Betty Lamacchia, Public Protection Bureau Administrator, is a graduate of Massachusetts Bay Community College, and has worked at Brookline Hospital Personnel Department and Harvard Law School. Betty, who has been with PPB since 1983, says "working for the AG makes you feel like you're part of a very worthwhile effort." As an example of the rapport among the staff, Betty cited her ability to line up people to work every day, every night and through the weekend on a 300-page Seabrook filing.



Betty Pylypink, the Government Bureau's Administrator, assigns secretaries to attorneys, trains new secretaries and oversees their work. She is also the first person everyone calls if the lights go out or there's a personnel problem. Having worked as a legal secretary in a private law firm before joining the bureau, Betty feels well equipped to function as a problem solver. "If you've been a secretary you had the same problems your secretaries have," she says.



Cases of Note

In a unanimous ruling, the Supreme Court reversed the SJC and agreed with the AG's petition in **Commonwealth v. Morash**, to allow the state to prosecute employers for withholding accrued vacation pay owed to fired workers. Calling it a "victory for working people," Jim said the decision "restores to Massachusetts workers a state remedy when employers deprive them of rightfully earned vacation pay." Deputy Government Bureau Chief Carl Valvo argued the case before the high court, assisted by AAG's Mark Laredo and Ruth Bourquin.

Charges brought against a Westborough printer resulted in the largest criminal fine ever imposed in a state criminal environmental case. The Chase Paper Company was ordered to pay a \$125,000 criminal fine and surcharge for disposing photographic process

wastes into the company's sanitary septic system. The investigation was conducted jointly by the Environmental Police assigned to the AG's Criminal Bureau, the Metropolitan Police and the Department of Environmental Quality Engineering. AAG Michael W. Dingle of the Criminal Bureau prosecuted the case for Shannon.

The AG sued the U.S. Department of Labor and the Office of the Job Corps, for violating federal laws by requiring applicants to be tested for HIV antibodies and excluding anyone from the residential program who tested positive. The department was joined in filing suit by Jane Doe, a citizen of Massachusetts forced to leave the program because of a positive HIV antibody test. Doe is being represented by the Disability Law Center and Gay and Lesbian Advocates and Defenders. The complaint seeks to enjoin

the Corps from requiring testing for HIV antibodies and from using the results to exclude Massachusetts residents from residential Job Corps programs.

A complaint filed in Suffolk Superior Court which seeks to close Wilmington Ford for a minimum of 30 days for repeated violations of a consent judgment, marks the first time the AG has ever requested an auto dealership be shut down for Consumer Protection violations. The complaint also seeks \$1.24 million in civil penalties — the largest ever sought in a civil suit. Handling the case for the department are AAGs Suzanne B. Matthews, Ernest L. Sarason and Susan Roberts, Deputy Chief of CPD.

Public Charities filed suit against a Virginia-based fundraiser, an attorney, three national charities and a for-profit organization, resulting in a suspension of the mailing of deceptive sweepstakes

solicitations to Massachusetts residents. The suit charges the defendants with mailing letters which failed to disclose that requested payments would very likely exceed the value of the prizes won. The case is being handled by AAG Division Chief, Richard Allen, and AAGs Lawrence J. McCarthy of the Charities Division and Ernest L. Sarason of CPD.

The Environmental Protection Agency (EPA) has approved Massachusetts' regulations requiring less volatile gasoline to be sold in the summer months. In February the AG sued the EPA charging the agency with failing to act on the Department of Environmental Quality Engineering's requirement that manufacturers reformulate gasoline sold during the summer to reduce ozone smog-causing emissions. AAG Janet G. McCabe of EPD handled the case.

Department of the Attorney General
1 Ashburton Place
Boston, MA 02108-1698
(617) 727-2543

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